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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/500,208
Filing Date: February 08, 2000
Appellant(s): BETZ ET AL.

William E Lewis (Reg No 39,274)
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 28, 2007 appealing from the Advisory

Office Action mailed June 6, 2007 and Final Office action mailed January 24, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

.(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,161,136	HYNDMAN ET AL	12-2000
5,768,510	GISH	6-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   **Claims 1,3,13,15,25,26 are rejected under 35 U.S.C. 102(e) as being anticipated by Hyndman et al (U.S. Patent No. 6,161,136).**

3.   *In reference to independent claims 1,13,25 and 26*, Hyndman teaches a corresponding method, system and article of manufacture, each respectively for use in a client/server system of reducing interactions between a client and a server in association with an application being accessed by the client at the server, comprising the steps of:

configuring the server to store a model associated with the application (*see column 3 lines 40,41,44-47 and column 4 line 7*, where Hyndman discloses "M-2" as a server side model associated with an MVC structure of a server side UIS application) and to execute view-generating and controller logic associated with the application (*see column 4 lines 5-12*, where Hyndman discloses "V-2" as the server side view for executing drawing of user interface

components, and where Hyndman discloses "C-2" as the server side controller for executing

marshalling mechanism); and

configuring the client to store at least a subset of the model associated with the

application (*see column 3 lines 40,41,44-47 and column 4 lines 13,14,* where Hyndman discloses

"M-1" as the client side model associated with an MVC structure of a client side UIC

application. The "M-1" caches a portion (i.e. subset) of the server model "M-2") and to execute

at least a subset of the view-generating and controller logic associated with the application (*see*

column 4 lines 16-19, column 5 lines 36-41 and column 6 lines 52-57, where Hyndman discloses

"V-1" as the client side view which is executed to present data to user for interaction with user,

and where Hyndman discloses "C-1" as client side mini-controller which is executed to catch

user actions and also to communicate with server side controller "C-2");

wherein one or more portions of the application are performed at the client without the

client having to interact with the server (*see column 5 lines 39-41,* where Hyndman discloses the

UIC managing enough data to refresh client display which does involve server interaction), and

further wherein the client and the server both locally maintain at least a portion of the model and

execute the view-generating and controller logic associated therewith (*column 2 lines 40-58 and*

column 3 lines 48-57).

4.   *In reference to claim 3 and 15,* Hyndman teaches the method of claim 1 and 13

respectively wherein the client performs the one or more portions of the application in

accordance with browser software running thereon (*column 6 lines 11-12*).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   **Claims 2,4-12,14,16-24 rejected under 35 U.S.C. 103(a) as being unpatentable over**

Hyndman et al (U.S. Patent No. 6,161,136) in view of Gish (US Patent No 5,768,510).

7.   *In reference to claim 2 and 14*, Hyndman in view of Gish teaches the method and system

of claims 1 and 13 respectively. Although Hyndman teaches a network application between a

client and server utilizing a browser (column 3 lines 30-50), Hyndman fails to explicitly teach

wherein the client and server communicate over a HyperText Transport Protocol network.

However, Gish teaches a client/server paradigm utilizing browsers enabled to communicate with

HyperText Transport Protocol, which is an industry standard in Internet communication (*Gish,*

column 16 lines 19-40).

It would have been obvious for one of ordinary skill in the art to modify Hyndman

wherein the client and server communicate over a HyperText Transport Protocol network as per

the teachings of Gish because since HTTP is an industry standard and is universally applied in

Internet communication, then it would be obvious for Hyndman to utilize this industry wide

standard to enable the client and server application components to communicate over the

Internet.

8.   *In reference to claim 4 and 16*, Hyndman in view of Gish teaches the method and system

of claim 3 and 15 respectively. Although Hyndman teaches a user interface within a browser (*see*

column 6 lines 11-12), Hyndman fails to explicitly teach wherein the configuring step further comprises the step of partitioning a screen area associated with the browser software into frames. However, Gish teaches creating screen frames to hold a user interface in a software environment *(Gish, column 35 lines 35-46).*

It would have been obvious for one of ordinary skill in the art to modify Hyndman wherein the configuring step further comprises the step of partitioning a screen area associated with the browser software into frames as per the teachings of Gish because the screen frames (i.e. partitions) can hold the user interface in the appropriate environment (i.e. browser).

9.   *In reference to claim 5 and 17,* Hyndman in view of Gish teaches the method and system of claim 4 and 16 above. Although Hyndman teaches a user interface MVC *(see column 3 lines 58-64)* and a user interface within a browser *(see column 6 lines 11-12),* Hyndman fails to explicitly teach wherein the at least a subset of the model, the view-generating and the controller logic associated with the application are associated with at least one frame and one or more views for display in accordance with the application are associated with at least another frame. However, Gish teaches creating screen frames to hold a user interface in a software environment *(Gish, column 35 lines 35-46)* and teaches handlers for updating the views for display in the user interface held by the frames *(Gish; column 35 lines 35-46 and column 37 line 57 – column 38 line 34).*

It would have been obvious for one of ordinary skill in the art to modify a subset of the model, the view-generating and the controller logic associated with the application of Hyndman and to associate it with at least one frame, and to modify the one or more views for display in accordance with the application of Hyndman to associate it with at least another frame, both

respectively as per the teachings of Gish because the frames of Gish can hold the user interface

of Hyndman which includes the MVC components in the appropriate environment (i.e. browser).

10.   *In reference to claim 6 and 18,* Hyndman in view of Gish teaches the method and system

of claim 5 and 17 above wherein the at least one view frame is a visible frame *(Gish; column 2*

line 60 – column 3 line 10 and column 35 lines 35-46, see rationale of claims 5 and 17 above).

11.   *In reference to claim 7 and 19,* Hyndman in view of Gish in view of Doyle teach the

method and system of claim 5 and 17 above, wherein the at least one frame associated with the at

least a subset of the model, the view-generating logic and the controller logic is not a visible

frame *(Gish; column 2 line 60 – column 3 line 10 and column 45 line 55 – column 46 line 15,*

see rationale of claims 5 and 17 above).

12.   *In reference to claim 8 and 20,* Hyndman in view of Gish teaches the method and system

of claim 4 and 16 respectively. Although Hyndman teaches a user interface MVC *(see column 3*

lines 58-64) and a user interface within a browser *(see column 6 lines 11-12),* Hyndman fails to

explicitly teach wherein the configuring step further comprises forming at least one frame with

which application-independent view-generating logic and controller logic is associated.

However, Gish teaches creating screen frames to hold user interface components in a software

environment *(Gish; column 2 line 60 – column 3 line 10 and column 35 lines 35-46).*

It would have been obvious for one of ordinary skill in the art to modify Hyndman

wherein the configuring step further comprises forming at least one frame with which

application-independent view-generating logic and controller logic is associated as per the

teachings of Gish because the frames of Gish can hold the user interface components of

Hyndman which includes view generating logic and controller logic of the MVC components in the appropriate environment (i.e. browser).

13.   *In reference to claim 9 and 21*, Hyndman in view of Gish teaches the method and system of claim 8 and 20 respectively wherein the at least one application-independent view-generating logic and controller logic frame further has an application-independent model associated therewith (*see Hyndman, column 3 lines 58-64*, the model is associated with the view and controller framework (i.e. MVC)).

14.   *In reference to claim 10 and 22*, Hyndman in view of Gish teaches the method of claim 8 and 20, wherein the at least one application-independent view-generating logic and controller logic frame serves as an application programming interface for developing views to be displayed in accordance with the application (*Gish; column 21 lines 10-60 and column 24 lines 5-30*, see rationale of claims 8 and 20 above).

15.   *In reference to claim 11 and 23*, Hyndman in view of Gish teach the method and system of claim 10 and 22 above. Hyndman fails to explicitly teach wherein the views are implemented in accordance with the HyperText Markup Language and the application programming interface is implemented in accordance with the JavaScript language. However, Gish teaches utilizing HTML for web pages and enabling interactive content, Java API's, in applets written in JavaScript (*Gish; column 15 lines 43-67, and column 16 lines 19-40*).

It would have been obvious for one of ordinary skill in the art to modify Hyndman wherein the views are implemented in accordance with the HyperText Markup Language and the application programming interface is implemented in accordance with the JavaScript language as per the teachings of Gish, because Gish shows that the industry recognized languages for

programming and developing dynamic and interactive content for an Internet applications are HTML and JavaScript.

16.   *In reference to claim 12 and 24*, Hyndman in view of Gish teaches the method and system of claim 1 and 13 respectively. Although Hyndman teaches an architecture for multiple MVC's, a client layer and server layer (*column 3 lines 44-67*), Hyndman fails to explicitly teach wherein the at least a subset of the model, the view-generating and the controller logic associated with the application are downloaded from the server to the client upon demand. However Gish teaches an MVC application with front-end and back-end components wherein the front-end is downloaded to the client (*Gish; column 18 lines 14-37*).

It would have been obvious for one of ordinary skill in the art to modify Hyndman wherein the client side model, the view-generating and the controller logic of Hyndman is downloaded from the server to the client upon demand as per the teachings of Gish so that the client can obtain its application portion via a communication network.

17.   The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

(10) Response to Argument

The examiner summarizes the various points raised by the Appellant and addresses the arguments individually.

1.   In argument (I), on pages 7-11 of Appeal Brief, Appellant argues whether claims 1,3,13,15,25,26 are anticipated under 35 USC 102 (e) by Hyndman (Patent No 6,161,136).

2.   On the bottom of page 8, Appellant argues that *"Hyndman does not disclose having a*

server to store and maintain a model associated with the application and to execute view-

generating and controller logic associated with the application, and having a client to store and

maintain at least a subset of the model associated with the application and to execute at least a

subset of the view generating and controller logic associated with the application." On page 9,

Appellant then cites some sections of Hyndman and repeats that Hyndman does not teach the

claim limitations.

        In response, Appellants arguments fail to comply with 37 CFR 1.111(b) because they

amount to a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the references.

Appellant has failed to explain how and why the Hyndman reference is different from the claims.

3.   On page 10, Appellant repeats the above mentioned argument, but then particularly

argues the following: a) the "V-2" of Hyndman does not teach "the view logic that is associated

with the application and executed by the server", b) the "C-2" of Hyndman does not teach "the

controller logic that is associated with the application and executed by the server", and c) the "C-

1" of Hyndman does not disclose the limitation of "a client executing at least a subset of the

controller logic associated with the application".

        In response, Appellants arguments fail to comply with 37 CFR 1.111(b) because they

amount to a general allegation that the claims define a patentable invention without specifically

pointing out how the language of the claims patentably distinguishes them from the references.

Appellant has failed to explain in detail how and why the "V-2", the "C-2" and the "C-1" of the

Hyndman reference are different from the claims. Although Appellants arguments amount to

mere allegations, an explanation of the Hyndman reference will be given:

Hyndman disclose a Multilevel Model-View-Controller (MMVC) that has a server side

component called User Interface Server (UIS) and a client side component called User Interface

Client (UIC). Each component (i.e. the UIS and the UIC) has their own Model, View and

Controller architecture (MVC) (*see column 3 lines 40,41,44-47 & 57-67*). The MMVC is

designed to considerably reduce the amount of communication between the components (*see

column 3 lines 49-55*). The server is configured with its MVC and contains "V-2" as the server

side view for executing drawing of user interface components (*see column 4 lines 5-12*), this is

equivalent to the limitation "view logic that is associated with the application and executed by

the server". The server also contains "C-2" as the server side controller for executing

marshalling mechanism (*see column 4 lines 5-12*) this is equivalent to the limitation "controller

logic that is associated with the application and executed by the server". Finally, the client is

configured with its own MVC which contains "C-1" as a client side mini-controller which is

executed to catch user actions and also to communicate with server side controller "C-2" (*see

column 4 lines 16-19 and column 6 lines 52-57*), this is equivalent to the limitation "a client

executing at least a subset of the controller logic associated with the application".

4.   In argument (II), on pages 11-13, Appellant argues whether claims 2,4-12,14,16-24 are

unpatentable under 35 USC 103 (a) over Hyndman in view of Gish (US Patent No 5,768,510).

5.   On page 11, Appellant argues that Gish does not disclose the limitations of claims 4 and

16.

In response, Appellants arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Appellant has failed to explain how and why the Gish reference is different from the claims.

6.   On page 11, Appellant argues that nowhere does the relied upon portions of Gish teach the limitations of claims 5 and 17.

In response, Appellants arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Appellant has failed to explain how and why the Gish reference is different from the claims.

7.   On page 12, Appellant argues that nowhere does the relied upon portions of Gish teach the limitations of claim 8.

In response, Appellants arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Appellant has failed to explain how and why the Gish reference is different from the claim.

8.   On page 12, Appellant argues that Gish does not teach the limitations of claims 12 and 24.

In response, Appellants arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Appellant has failed to explain how and why the Gish reference is different from the claims.

9.   On page 12, Appellant argues that the Examiner failed to identify a cogent motivation when combining Hyndman and Gish in claims 2 and 14.
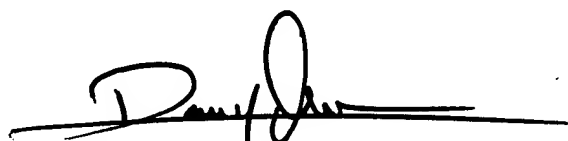
In response, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Hyndman was shown to teach a network application between a client and server utilizing a browser (*Hyndman, column 3 lines 30-50*), while Gish was shown to teach teaches a client/server paradigm utilizing browsers enabled to communicate with the well-known HyperText Transport Protocol (*Gish, column 16 lines 19-40*). The reason for combining the references is that because since HTTP is an industry standard in Internet communication, then it would be obvious for Hyndman to utilize this industry wide standard to enable the client and server application components to communicate over the Internet.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.
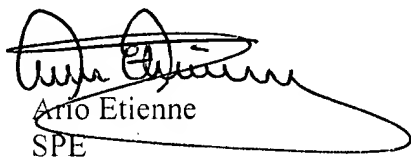
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ramy M Osman

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